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viding that in contested cases the burden of proof shall be on the taxpayer to show that he had made a full disclosure.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 106.]

6. Taxation (§ 362*)—Omitted Taxes—Validity of Assessment.—The fact that the examiner of records had no evidence before him as to the exact total amount of omitted capital or what proportions were employed at various points in the state, but acted solely on his own opinion, did not invalidate the assessment for omitted taxes, since the examiner acts judicially.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 91.]

7. Constitutional Law (§ 229 (3), 284 (1)*)—Taxation (§ 37*)—Due Process of Law—Equal Protection.—On application for reduction of assessment for omitted taxes, evidence that the property was assessed in the same proportion as the property of other citizens was properly excluded, there being no denial of due process of law and equal protection of laws guaranteed by Const. U. S. Amend. 14, and by Const. Va. §§ 11, 168, since it is only a systematic intentional discrimination which invalidates the levy.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 85.]

8. Taxation (§ 362*)—Omitted Property—Correction of Assessment—Full Disclosure.—Code 1904, § 508, as amended by Acts 1916, c. 491, § 1, par. 7, prohibiting the correction of an assessment when the property owner has made a full disclosure of his intangible personalty, is of no avail to a corporation which made no attempt to disclose omitted capital.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 91, 106.]

9. Taxation (§ 362*)—Omitted Taxes—Interest.—Since Acts 1916, c. 491, vests no discretion in the taxing officer as to whether interest upon omitted taxes shall be charged, such taxes bear interest.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 118.]

Error to Circuit Court, Giles County.

Proceeding on the application of the Union Tanning Company for relief from an assessment for taxation, opposed by the Commonwealth of Virginia. To review the judgment rendered, the applicant brings error. Affirmed.

Attorney-General Ino. R. Saunders and Assistant Attorney General J. D. Hank, Jr., for the Commonwealth.

STAPLETON v. COMMONWEALTH.

Sept. 19, 1918.

[96 S. E. 801.]

1. Homicide (§ 22 (2)*)—Murder in First Degree.—A homicide in

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

execution of a previously existing grudge and in pursuance of a previously declared purpose is murder in the first degree.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 118.]

2. Criminal Law (§ 822 (1)*)—Instructions.—Instructions are to be read as a whole.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 743.]

3. Homicide (§ 112 (1)*, 190 (7)*)—Justifiable Homicide—Threats.—Threats made by a deceased will not be considered as affording any justification for a homicide, unless communicated to the accused prior to the killing, although uncommunicated threats may be proved to have been made.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 112, 133, 139.]

4. Criminal Law (§ 810*)—Inconsistent Instructions.—An instruction that use of a weapon in killing deceased was sufficient to raise a presumption of malice was not inconsistent with an instruction that accused had right to arm himself if he reasonably apprehended that another intended to kill him or do him serious bodily harm; instructions being given on opposing theories.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 729.]

Error to Circuit Court, Scott County.

John W. Stapleton was convicted of voluntary manslaughter, and brings error. Affirmed.

W. S. Cox, of Gate City, *G. Claude Bond*, of Nicklesville, and *Coleman & Carter*, of Gate City, for plaintiff in error.

John R. Saunders, *Atty. Gen.*, and *J. D. Hank, Jr.*, *Asst. Atty. Gen.*, for defendant in error.

DENNIS *v.* ROBERTSON

Sept. 19, 1918.

[96 S. E. 802.]

1. Taxation (§ 781*)—Tax Deed—Character.—A tax deed at common law is simply a link in the chain of the grantee's title, and does not ipso facto transfer the title of the owner, as in grants from the government, or deeds of private persons, its operative character depending upon the regularity of the previous proceedings.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 173.]

2. Taxation (§ 789 (3)*)—Tax Deed—Effect.—No presumption arises from mere production of a tax deed that the facts on which it is based had any existence, but when it is shown that the ministerial officers of the law have performed their every duty the deed

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.